



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N114; FXES11120800000–145–FF08EVEN00]

Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail; Lewis-Barnes Parcel, Community of Los Osos, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for a 10-year incidental take permit under the Endangered Species Act of 1973, as amended. The application addresses the potential for “take” of the federally endangered Morro shoulderband snail that is likely to occur incidental to the construction and maintenance of a single-family residence and implementation of a conservation strategy. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan for the Morro shoulderband snail.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may download a copy of the habitat conservation plan and draft environmental action statement and low-effect screening form on the internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Julie M. Vanderwier, Senior Fish and Wildlife Biologist, at the above address or by phone at (805) 644–1766.

SUPPLEMENTARY INFORMATION: We have received an application from Joaquin Lewis and Gwenda Barnes for a 10-year incidental take permit (ITP) under the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). The application addresses the potential for “take” of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) that is likely to occur incidental to the construction and maintenance of a single-family residence and implementation of a conservation strategy on an existing legal single-family–zoned parcel in the unincorporated community of Los Osos, San Luis Obispo County, California. The applicants have committed to implement a conservation program to minimize and mitigate project activities that are likely to result in take of the Morro shoulderband snail as described in their plan. We invite comments from the public on the application package, which includes the low-effect HCP for the Morro shoulderband snail. This proposed action has been determined to be eligible for a categorical exclusion under National Environmental Policy Act (NEPA).

Background

We listed the Morro shoulderband as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act and its implementing regulations (16 U.S.C. 1531 *et seq.*) prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “incidental take” as take that is not the purpose of carrying out of an otherwise lawful activity. The Code of Federal Regulations provides those regulations governing incidental take permits for threatened and endangered species at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

The Applicants’ Proposed Project

Joaquin Lewis and Gwenda Barnes (hereafter, the applicants) are the owners of an existing residentially zoned 20,038-square-foot (0.46-acre) parcel legally described as County of San Luis Obispo Assessor Parcel Number 074–483–013. It is located at 216 Madera Street in the western portion of Los Osos, an unincorporated community of San Luis Obispo County, California. The applicants have submitted a low-effect habitat conservation plan in support of their application for an ITP to address take of Morro shoulderband snail likely to occur as the result of direct impacts to up to 20,038 square feet (sf) (0.46 acres) of predominantly nonnative habitat occupied by the species. This take would be associated with the continued construction

and maintenance of a single-family residence, along with implementation of the conservation strategy. The applicants are requesting a permit for take of Morro shoulderband snail that would result from “covered activities” in the HCP that include the construction and maintenance of a single-family residence and associated infrastructure and landscaping.

The applicants propose to minimize and mitigate take of Morro shoulderband snail associated with the covered activities by fully implementing the HCP. The following measures would be implemented to minimize the effects of the taking: (1) Pre-construction and concurrent construction monitoring surveys for Morro shoulderband snail would be conducted, (2) all identified individuals of any life stage of Morro shoulderband snail would be captured and moved out of harm’s way to a Service-approved receptor site by an individual in possession of a current valid recovery permit for the species, and (3) a contractor and employee environmental training program for Morro shoulderband snail would be developed and implemented. To mitigate for unavoidable take, the applicants would contribute \$4,500 to an impact-directed environmental account held and administered by the National Fish and Wildlife Foundation. The use of these funds is to implement recovery tasks identified in the *Recovery Plan for the Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California* (USFWS 1998). The applicants would fund up to \$4,300, as needed, to ensure implementation of all of the minimization measures and reporting requirements identified in the HCP.

In the proposed HCP, the applicants consider two alternatives to the proposed action: “No Action” and “Project Design.” Under the “No Action” alternative, the Service would not issue an ITP, and the legal construction of a single-family residence would not occur. Absent the ITP, there would be no contribution of in-lieu fees to effect recovery actions for the Morro shoulderband snail. Since the property is privately owned, there are ongoing economic

considerations associated with continued ownership absent its intended use upon purchase, the primary of which is payment of associated taxes. The sale of this property for other than the currently zoned and identified purpose is not considered biologically meaningful or economically feasible. Because of economic considerations and because the proposed action results in a net benefit for the Morro shoulderband snail, the No Action Alternative has been rejected.

The “Project Redesign” alternative would involve design of a project that would further reduce or avoid altogether take of Morro shoulderband snail. Construction permit PMT2009–01239 was issued to the former property owners in 2010. At that original time, take of the Morro shoulderband snail was not considered likely to result from project implementation. In accordance with the conditions of the construction permit, the building foundation and septic system for the single-family residence were completed in 2011. Because of the presence of the existing infrastructure, it is economically unfeasible to change the scope of the Lewis-Barnes project. For this reason, the project redesign alternative is also rejected.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicants’ proposal will have a minor or negligible effect on the Morro shoulderband snail, and that the plan qualifies for a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). Three criteria form the basis for our determination: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP

impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. It is our preliminary determination that HCP approval and ITP issuance qualify for categorical exclusion under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, we may revise our determination based upon review of public comments received in response to this notice.

Next Steps

We will evaluate the permit application, including the HCP and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We are requesting comments on our determination that the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail, and that the plan qualifies as a low-effect HCP. We will evaluate the permit application, including the HCP and comments we receive, to make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If the requirements are met, we will issue the permit to the applicants to authorize incidental take of the Morro shoulderband snail. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, HCP, and associated documents, you may submit comments by any one of the methods provided in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

Dated: June 10, 2014.

**Stephen P. Henry, Field Supervisor,
Ventura Fish and Wildlife Office,
Ventura, California.**

Billing Code 4310–55

[FR Doc. 2014-13969 Filed 06/13/2014 at 8:45 am; Publication Date: 06/16/2014]